## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:15-cv-00397-MOC-DCK

DAVID FOSTER,	)	
Plaintiff,	)	
Vs.	)	ORDER
PAILIN WILET SHARON ISLEY	)	
HORACE MANN INSURANCE COMPANY,	)	
Defendants.	)	

**THIS MATTER** is before the court on plaintiff's Motion to Dismiss and Remand to Superior Court. While plaintiff cites the court to "Rule 12(b)" as the basis for its own motion to dismiss, the court has read that pleading in a light most favorable to plaintiff and concluded that plaintiff seeks a remand of this removed matter to the North Carolina General Court of Justice, Superior Court Division, for lack of subject matter jurisdiction under 28 U.S.C. § 1447(c).

In support of that motion, plaintiff states that federal courts are "reluctant to address tort claims regarding insurance issues such as this" and cites cases in support of that proposition. See Motion (#14) at 4. Even after Defendant Horace Mann Insurance Company explained the defect in plaintiff's motion, plaintiff did not file a Reply as permitted under Local Civil Rule 7.1 In the end, plaintiff has not shown how the defendants' assertion of this court's diversity jurisdiction was improper by either showing that the parties are not diverse or that the amount in controversy does not exceed \$75,000.00. Review of the Complaint along with the removal papers clearly shows that it has diversity jurisdiction over this action and that removal on that basis was proper.

## **ORDER**

**IT IS, THEREFORE, ORDERED** that plaintiff's Motion to Dismiss and Remand to Superior Court (#13) is **DENIED**.

Signed: March 25, 2016

Max O. Cogburn Jr

United States District Judge